

Officer Joseph BOTELHO Jr.
HCPD - Hilo

04-17-2002
Det. J. EVANGELISTA

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HL
ATT ASSAULT

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Note that this interview was audiotaped and the audio tape was subsequently recovered as evidence.

NEXT ASSIGNMENT

After completing the interview with Roger STARBUCK, I was next assigned to conduct an interview with the suspect for breaking into the washing machine. This assignment came from Lieutenant Derek PACHECO on 04-17-2002 at 0620 hours.

I was informed that this interview should be conducted under Advice of Rights, being that the suspect was in custody for the attempted theft for trying to break into the coin-operated machines. I was informed that the suspect was currently at the Hilo Police Station cellblock.

ADVICE OF RIGHTS/INTERVIEW WITH JUSTIN AOKI

04-17-2002: Approximately 0650 Hrs.: While at the Hilo Police Station just outside of Building B, I began an interview with:

Justin Akinori AOKI, [REDACTED]

DOB: [REDACTED]

SSN: [REDACTED]

Ph.: [REDACTED]

Unemployed

This interview was also tape-recorded.

I began my contact with AOKI by clarifying if he knew that he was under arrest and what he was arrested for. AOKI stated that he was informed that he was under arrest. He then asked what he was being charged with. I informed him that he had not been charged with anything as of yet. I then informed him that I wanted to obtain a statement regarding what had

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EXHIBIT 3

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transpired earlier on Shipman Street. I explained that because he was under arrest, I needed to advise him of his rights.

04-17-2002: 0653 Hrs.: I advised Justin AOKI of his rights by reading to him verbatim from the Hawaii County Police Department Advice of Rights form. He indicated on the form with his initials that he understood his rights, did not want a lawyer now, was willing to answer questions and make a statement, and did not want a lawyer during this interview. AOKI signed the form at 0654 hours.

I asked AOKI to begin his statement from the point where an officer first contacted him this morning on Shipman Street. AOKI stated that he was sitting in the driver's side seat of the car which was parked on the Hamakua side of Shipman Street in the parking stall across the street from the Laundromat. AOKI further stated that he was parked near the pay phone on Shipman Street.

AOKI stated that he was sitting in the driver's side seat of the car and was looking for change to use the pay phone when an officer came up and asked him who he was. AOKI stated that he told the officer that he was "Chad SATO." AOKI said that he did this because he was scared.

AOKI stated that the officer then asked him to step away from the car. AOKI stated that the guy from the Laundromat then called the officer over and the officer went over to the Laundromat. AOKI stated that at this time his friend, Wendell TANGARO, was in the back seat of the car asleep.

AOKI said that when the officer walked over to the Laundromat, he (AOKI) opened the left rear door of the car and woke up TANGARO saying that the "cops were here." AOKI stated that TANGARO then panicked and told AOKI something to the effect, "Go, go."

AOKI stated that TANGARO then jumped over the seat of the car and got into the driver's side seat. AOKI stated that

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TANGARO did not get out of the car but made his way into the driver's side seat where TANGARO started the car and revved the engine to high revs. AOKI stated that TANGARO then "burned rubber" in reverse with the tires screeching and reversing quickly. AOKI stated that TANGARO reversed straight out of the stall and did not turn the wheel in order to be able to proceed straight down Shipman Street after reversing.

AOKI stated that as he was waking TANGARO up, another officer had come up from the bottom of Shipman Street. AOKI said that he thought TANGARO panicked because he saw all the lights and the police. He (AOKI) thought that TANGARO had a warrant. AOKI stated that two weeks ago TANGARO told him that he was "on the run" from a parole violation.

AOKI stated that he believed that the officer might have yelled something as TANGARO reversed the car. AOKI stated that TANGARO reversed the car and the car was facing in a Hamakua/makai direction. He stated that TANGARO was revving the engine as the car came to a stop from backing up. He stated that the officer pulled out his gun and fired a shot through the windshield; this was as the car was coming to a stop from reversing. AOKI stated that at this time the officer who fired the shot was in front of the car and there was about 20 feet of space between the officer and the car.

AOKI stated that after the shot was fired, he could see TANGARO's hands up at his face. AOKI stated that the car then returned to a regular idle, died out, and rolled into the parking meters on Shipman Street. AOKI stated that he saw all of this from the sidewalk on the Hamakua side of Shipman Street. He stated that he had backed away from the car when TANGARO started it.

AOKI stated that the officer who fired the shot then put on gloves and approached TANGARO. The officer was asking for TANGARO's name and it seemed to him (AOKI) that the officer was trying to keep TANGARO conscious. AOKI stated that by that time he (AOKI) had been instructed by other officers to get on

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the ground and an officer stood nearby him. AOKI stated that he later saw TANGARO being taken away by the paramedics.

AOKI stated that the car belongs to his (AOKI's) girlfriend:

Kelsy HIGAKI,
DOB: [REDACTED]

AOKI stated that he drove the car to Shipman Street. In further detail, AOKI stated that when the first officer contacted him, he was sitting in the driver's side seat looking for change in the car. AOKI stated that he was looking in the change pocket of the car which is located just below the car radio. He stated that the officer asked him to step away from the car.

AOKI stated that he believed that the officer saw TANGARO and told him (AOKI) that he did not have to wake up TANGARO. AOKI stated that the officer then went over to the Laundromat and contacted a guy from the Laundromat. As the officer did this, he (AOKI) then opened the left rear door of the car and woke up TANGARO, telling him that the cops were here.

AOKI stated that TANGARO then panicked and jumped into the driver's seat of the car. AOKI said that he was telling TANGARO at this point, "What you doing? What you doing?" AOKI stated that he then backed away from the car when TANGARO started it and began revving the engine.

AOKI stated that TANGARO is his friend for about six months. He said that TANGARO used to live on Chong Street and he himself is from the Chong Street area. AOKI stated that he knows TANGARO through the use of crystal methamphetamine. AOKI said that he thought TANGARO was pretty heavy into crystal methamphetamine.

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AOKI said that he himself has not smoked crystal methamphetamine since three to four days ago. He said that he was trying to stop because his girlfriend is pregnant.

AOKI stated that he had gone to the pay phone on Shipman Street to try and setup a place for TANGARO to sleep that night. He said that TANGARO was kind of homeless.

AOKI stated that he could not find enough money for the pay phone in the car. AOKI stated that he then got a vise grip and a screwdriver from some tools that he knew TANGARO had in the back of the car. AOKI stated that he then went into the Laundromat with those tools to "play with the lock" to see if it would open, meaning the coin-operated machines in the Laundromat. I then asked AOKI, "To score some change?" to which he said, "Yeah." At this point AOKI had nothing further to add.

Note that this interview was audio taped with AOKI's knowledge and the audio tape used was subsequently recovered as evidence.

NEXT ASSIGNMENT

04-17-2002: 0750 Hrs.: I received an assignment from Lieutenant Derek PACHECO to take Justin AOKI back to the scene on Shipman Street to conduct a reconstruction with Justin AOKI. I was also assigned to complete a gunshot residue evidence collection kit with Justin AOKI.

GUNSHOT RESIDUE EVIDENCE COLLECTION KIT COMPLETED

04-17-2002: 0815 Hrs.: Following the instructions included in the gunshot residue evidence collection kit, I collected swabbings of Justin AOKI's hands. The gunshot residue evidence collection kit was then sealed and recovered as evidence.

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RECONSTRUCTION WITH JUSTIN AOKI

04-17-2002: 0830 Hrs.: At this time I left the Hilo Police Station with Justin AOKI in my custody to return to the scene on Shipman Street to conduct a reconstruction.

Upon arrival at the scene, I briefed Detective Albert CORTEZ on the fact that a reconstruction needed to be done with Justin AOKI. This reconstruction was to be videotaped by Detective CORTEZ.

Once Detective CORTEZ was ready with the videocamera, I went through a reconstruction with Justin AOKI where he added a few more details, such as the fact that he had change in his hand when the officer asked him to step away from the car. He said that the officer asked him what he had in his hand and AOKI then placed the change in the officer's hand.

AOKI said that he now believed after looking at the scene that as TANGARO reversed, he might have turned the wheel a little because the car was not parallel with the parking space after it reversed out of the parking space; it was facing in a more makai direction but not completely makai. This reconstruction with AOKI was videotaped by Detective CORTEZ. For further information, the videotape can be referred to.

EVIDENCE RECOVERED

The evidence recovered by me in this case are documented as follows:

Evidence/Property Receipt No. 6JE was a gunshot residue evidence collection kit for Justin AOKI that was signed over to the custody of Detective KAAUMOANA-MATSUMOTO on 04-18-2002; prior to this it remained either in my personal possession or within my locked desk drawer, having already been sealed with evidence tape that was undisturbed at this time

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